



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### PIEDMONT REGIONAL OFFICE

4949-A Cox Road, Glen Allen, Virginia 23060

(804) 527-5020 Fax (804) 527-5106

[www.deq.virginia.gov](http://www.deq.virginia.gov)

L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

Gerard Seeley, Jr.  
Regional Director

## STATE WATER CONTROL BOARD ENFORCEMENT ACTION SPECIAL ORDER BY CONSENT ISSUED TO TOWN OF COLONIAL BEACH Permit No. VA0026409

### **SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and the Town of Colonial Beach, for the purpose of resolving certain violations of environmental law and regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.

6. "Colonial Beach" means the Town of Colonial Beach located in Westmoreland County, Virginia
7. "Facility" means the wastewater treatment plant located at 2301 McKinney Boulevard, Colonial Beach, Virginia.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "Permit" means VPDES Permit No. VA0026409, which became effective July 8, 2005, modified on May 30, 2006, and expires July 7, 2010.
10. "DO" means dissolved oxygen.
11. "O&M" means operation and maintenance.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Colonial Beach owns and operates a wastewater treatment Facility in Westmoreland County, Virginia. This Facility is the subject of VPDES Permit No. VA0026409, which allows Colonial Beach to discharge treated wastewater into Monroe Bay in strict compliance with terms, limitations and requirements outlined in the permit.
2. Colonial Beach reported 7 ammonia-nitrogen violations for the December 2005 through March 2006 monitoring periods. In addition, Colonial Beach reported a discharge of approximately 1300 gallons of untreated sewage from a clogged line in its collection system into stormwater drains in the Riverside Meadows Subdivision.
3. A review of the Colonial Beach Facility file indicated that the Town had failed to submit an updated O&M manual and a plan for complying with the permit's final ammonia limit which were both due on October 8, 2005.
4. On March 27, 2006, an incomplete O&M manual was submitted to the Department.
5. On June 9, 2006, Colonial Beach reported a DO violation for the May 2006 monitoring period. The Department issued two warning letters on April 20, 2006, and July 10, 2006, citing Colonial Beach for the ammonia and DO violations and for the continued failure to submit the plan for complying with the Permit's final ammonia limit.
6. Colonial Beach responded to the July 10, 2006, warning letter stating that the ammonia violations were due to the failure of jet pumps in both aeration basins. Colonial Beach stated that the DO violation was due to operator error.

7. Department staff conducted an inspection of the Town's treatment plant on August 17, 2006 and found a number of conditions that needed to be corrected.
8. On September 23, 2006, the Town reported a bypass of 384,000 gallons of partially treated (chlorinated and dechlorinated) sewage.
9. On October 23rd and 25th, 2006, the Town reported several unauthorized discharges totaling 1500 gallons of untreated sewage after a phone company cut into several lateral lines.
10. On October 28, 2006, the Town reported an unauthorized discharge of 10,000 gallons of untreated sewage from the Boundary Street and Town Yard lift stations. The discharge occurred due to pump failures at the Public Works Pump Station located at Boundary Street.
11. On November 15, 2006, the Department issued a NOV to the Town citing it for several unauthorized discharges, the ammonia-nitrogen and DO effluent violations, and failure to submit several outstanding permit schedule requirements.
12. On December 27, 2006, the Town reported an unauthorized discharge that occurred on December 25th of approximately 1,000,000 gallons of untreated wastewater from the Boundary Street and Town Yard lift stations. The discharge occurred due to pump failures at the Public Works Pump Station located at Boundary Street.
13. On December 27, 2006, The Department met with the Town to discuss the outstanding compliance issues. At the Department's request, the Town evaluated the Facility's budget and staffing to insure that general maintenance and repairs can be completed in a timely manner. The Town stated that it intends to hire two additional operators and one maintenance and repair technician.
14. On January 5, 2007, the Town completed repairs to the pumps at the Boundary Street and Town Yard lift stations.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders Colonial Beach, and Colonial Beach agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Colonial Beach, and Colonial Beach voluntarily agrees, to pay a civil charge of \$13,200 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. The payment shall note that it is being made pursuant to this Order and shall note the Federal Identification Number for Colonial Beach. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Colonial Beach, for good cause shown by Colonial Beach, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Colonial Beach by DEQ on November 15, 2006. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Colonial Beach admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Colonial Beach consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Colonial Beach declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Colonial Beach to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Colonial Beach shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Colonial Beach shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Colonial Beach shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which Colonial Beach intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

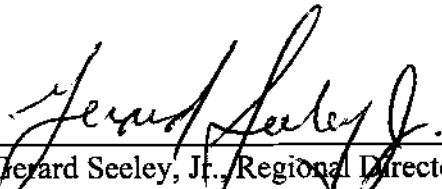
9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Colonial Beach. Notwithstanding the foregoing, Colonial Beach agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. Colonial Beach petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - b. The Director or Board terminates the Order in his or its sole discretion upon 30 days notice to Colonial Beach.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Colonial Beach from its obligation to comply with any statute,

regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Colonial Beach voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of June 29, 2007.

  
Gerard Seeley, Jr., Regional Director  
Department of Environmental Quality

Colonial Beach voluntarily agrees to the issuance of this Order.

By: George W. Bone Jr. Mayor  
Date: 5 April 2007

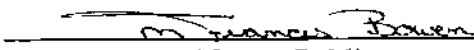
Commonwealth of Virginia

City/County of Westmoreland

The foregoing document was signed and acknowledged before me this 5<sup>th</sup> day of

April, 2007, by George W. Bone Jr., who is  
(name)

Mayor of Colonial Beach, on behalf of the Town.  
(title)

  
Notary Public

My commission expires: 8-31-2007.

## APPENDIX A

Colonial Beach shall:

1. Upon issuance of this Order, final permit effluent limits for ammonia shall be effective.
2. On or before April 3, 2007, submit to the Department for review and approval a preliminary engineering report (PER) for the construction of nutrient removal technologies required to achieve compliance with the Permit's effluent limitations for total phosphorous and total nitrogen.
3. On or before May 1, 2007 submit to the Department a prioritized list and schedule for the completion of repairs needed to the sewer collection system. Once approved by the Department the schedule will become a part of this Order.
4. Three months after the Department approval of the PER in #2 above, submit to the Department final plans and specifications for the nutrient removal technologies required and an application for a certificate to construct.
5. On or before December 1, 2007, submit to the Department for review and approval a modified O&M manual which shall include as a minimum a chapter detailing a comprehensive management, operation, and maintenance plan for the entire wastewater collection system. The chapter shall contain a reasonable level of detail including: 1) the maintaining of detailed logs/records; 2) determining equipment/system malfunction rates; 3) established schedules; 4) I/I evaluations; 5) manhole inspections; 6) sewer cleaning program; 7) hydrogen sulfide monitoring and control; 8) lift station operations; 9) easement/right-of-way maintenance; 10) "walking" or visual observation of lines; 11) a spare parts inventory; and, 12) telemetry/alarm system checks.
6. On or before April 1, 2008, begin construction on the Department approved nutrient removal facility.
7. On or before July 8, 2009, achieve compliance with the Permit's effluent limitations for total phosphorous and total nitrogen.

**Pursuant to this Order** communications regarding this Order and its requirements, other than the civil charge payment described in Section D of the Order, shall be addressed as follows:

Frank Lupini  
Department of Environmental Quality  
Piedmont Regional Office  
4949-A Cox Road  
Glen Allen, Virginia 23060

Colonial Beach shall confirm, in writing, completion of the Order requirements to the above address **within five (5) days of completion.**